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In re Application of
LUSCOMBE
Application No.: 09/646,733
PCT No.: PCT/CA99/00233
Int. Filing Date: 19 March 1999
Priority Date: 25 March 1998
Attorney Docket No.: 645-10/CJL
For: WATER SANITIZING SYSTEM

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This is in response to applicant's communication originally filed in the United States Patent and Trademark Office (USPTO) on 11 January 2002. This is also in response to a communication filed on 01 August 2002.

BACKGROUND

On 19 March 1999, applicant filed international application No. PCT/CA99/00233 which claimed a priority date of 25 March 1998, and which designated the United States.

On 22 October 1999, a Demand was filed with the International Preliminary Examining Authority electing the United States. The election was made prior to the expiration of 19 months from the priority date, and as a result the deadline for entry into the national stage in the U.S. was extended and expired 30 months from the priority date, i.e. 25 September 2000.

On 21 September 2000, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*, a small entity statement and authorization to charge the \$485 basic national fee to applicant's deposit account. However, applicant failed to provide a deposit account number. As a result, the application went abandoned.

On 13 September 2001, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicant indicating that an oath or declaration executed by the inventors and the surcharge for filing the oath or declaration after the thirty month period (\$65 for a small entity) within two months of the mail date of the notice or by 13 November 2001. Extensions of time were available.

On 13 November 2001, applicant responded to the Notification of Missing Requirements with an executed declaration and \$65 surcharge.

On 10 December 2001, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed indicating that applicant failed to provide the full U.S. Basic National Fee by the 30 months deadline (37 CFR 1.495(b)(2)) and the application was considered abandoned.

On 11 January 2002, applicant responded to the Notification of Abandonment with authorization to charge the basic national fee to the deposit account. Applicant also filed a request for a two month extension of time. This communication is not found in the application file. However, applicant filed a copy of the 11 January 2002 communication via facsimile on 01 August 2002 along with the present communication, in effect, requesting review of the application file and confirmation that the application is in good standing.

DISCUSSION

Applicant's request for entry into the national stage failed to provide payment of the basic national fee. Pursuant to 35 U.S.C. 371 and 37 CFR 1.495(b) and (h), the application was abandoned for failure to pay the basic national fee by the 30 month deadline.

At the outset, the request for an extension of time is an inappropriate response to the Notification of Abandonment and is dismissed. No fees were charged to applicant's deposit account in this regard. Applicant authorized the U.S. basic national fee (\$445) to be charged to his deposit account.

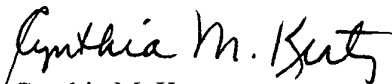
To revive the abandoned application, applicant is advised to file a petition to revive under 37 CFR 1.137(a) or (b). Applicant is also advised to review *MPEP* §711.03(c) III C for a detailed discussion of requirements of filing a petition to revive. It is noted that petitions under 37 CFR 1.137(b) are less burdensome (statement(s) rather than a showing accompanied by documentary evidence) to file and are evaluated under the less stringent "unintentional delay" standard. This recommendation to file a petition under 37 CFR 1.137(b) should not be construed as an indication as to whether or not any such petition(s) will be favorably considered.

CONCLUSION

The application remains **ABANDONED**. The basic national fee of \$445 will be charged to applicant's deposit account.

The application will be held in the PCT Legal Office to await applicant's reply.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter marked to the attention of the PCT Legal Office.



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